

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

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DEBRA B. HACKETT CLK
FEDERAL DISTRICT COURT

TINNA SHERMAN,)
)
 PLAINTIFF,)
)
 VS)
)
 OPELIKA AUTO GROUP, INC.,)
)
 DEFENDANT.)

CASE NO:

3:07cv1100

NOTICE OF REMOVAL OF CIVIL ACTION

The sole Defendant, Opelika Auto Group, Inc., (OAG), files and presents the removal of this action based on federal question jurisdiction, to the United States District Court for the Middle District of Alabama, and as grounds for said removal from the Circuit Court of Lee County, Alabama respectfully shows unto the Court as follows:

1. The Plaintiff filed a Summons and Complaint against OAG in the Circuit Court of Lee County, Alabama, under case number CV07-900260.00. A copy of that Summons and Complaint is attached

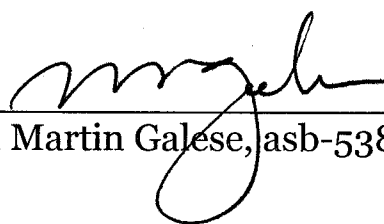
hereto and incorporated herein by reference. This attachment contains all of the pleadings and process served upon OAG.

2. The Plaintiff, in her Complaint, asserts claims under the Civil Rights Act of 1964, 42 U.S.C. §2000(e), et.seq. and state law claims.
3. Service of the Summons and Complaint was made on OAG within thirty days from the date of this removal.
4. Pursuant to 28 U.S.C. §1331, this Court has original jurisdiction over the 42 U.S.C. §2000(e) claim without regard to the amount in controversy or the citizenship of the parties.
5. This action could originally have been filed in the United States District Court for the Middle District of Alabama, under 28 U.S.C. §1331 because it arises under 42 U.S.C. §2000(e), et seq.
6. This United States District Court also has original jurisdiction over this action pursuant to 42 U.S.C. §2000e-5(f)(3) which confers jurisdiction in any United States District Court for actions related to violations of 42 U.S.C. §2000(e).
7. This Court has pendent jurisdiction over the Plaintiff's state law claims.

8. This petition is being filed within thirty days of the service of the Summons and Complaint. This petition is timely filed pursuant to 28 U.S.C. §1446(b).
9. A true and correct copy of this Notice of Removal is filed with the Clerk of the Circuit Court of Lee County, Alabama, as required by 28 U.S.C. §1446.

WHEREFORE, the Defendant prays that the above-styled action, pending in the Circuit Court of Lee County, Alabama, be removed to this Court. If any question arises as to the propriety of the removal of this action, the Defendant requests the opportunity to present a brief and oral argument in support of its position that this action is properly removed.

Respectfully submitted,



John Martin Galese, asb-5382-e61j

OF COUNSEL
GALESE & INGRAM, P.C.
800 Shades Creek Parkway
300 First Commercial Bank Building
Birmingham, Alabama 35209
(205) 870-0663

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been served upon the following by placing a copy of same in the United States Mail, postage prepaid, on this the 18th day of December, 2007.

Benjamin H. Parr, Esq.
410 Second Avenue
Opelika, AL 36801
334/745-3333



Of Counsel

State of Alabama
Unified Judicial System
Form C-34 Rev 6/88

**SUMMONS
- CIVIL -**

Case Number:
43-CV-2007-900260.00

**IN THE CIVIL COURT OF LEE, ALABAMA
TINNA SHERMAN v. OPELIKA AUTO GROUP, INC.**

OPELIKA AUTO GROUP, INC., C/O KENNETH BOGGS 801 COLUMBUS PKWY, OPELIKA AL, 36801

NOTICE TO

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS. YOU OR YOUR ATTORNEY ARE REQUIRED TO FILE THE ORIGINAL OF YOUR WRITTEN ANSWER, EITHER ADMITTING OR DENYING EACH ALLEGATION IN THE COMPLAINT WITH THE CLERK OF THIS COURT. A COPY OF YOUR ANSWER MUST BE MAILED OR HAND DELIVERED BY YOU OR YOUR ATTORNEY TO THE OPPOSING PARTY'S ATTORNEY BENJAMIN PARR

WHOSE ADDRESS IS 410 SECOND AVENUE, OPELIKA AL, 36801

THE ANSWER MUST BE MAILED WITHIN 30 DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

TO ANY SHERIFF OR ANY PERSONNEL AUTHORIZED by the Alabama Rules of the Civil Procedure:

☒ You are hereby commanded to serve this summons and a copy of the complaint in this action upon the defendant

☐ Service by certified mail of this summons is initiated upon the written request of _____
pursuant to the Alabama Rules of the Civil Procedure

12/6/2007 11:49:21 AM

/s CORINNE T. HURST

Date

Clerk/Register

By

☐ Certified mail is hereby requested

Plaintiff's/Attorney's Signature

RETURN ON SERVICE:

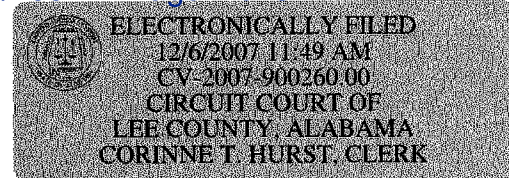
☐ Return receipt of certified mail received in this office on _____

☐ I certify that I personally delivered a copy of the Summons and Complaint to _____

_____ in _____ County, Alabama on _____

Date

Server's Signature



IN THE CIRCUIT COURT OF LEE COUNTY, ALABAMA

TINNA SHERMAN,
Plaintiff,

V.

OPELIKA AUTO GROUP, INC.,
Defendant.

:
:
:
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:
:
:
:
:

CASE NO:

DEMAND FOR JURY TRIAL

COMPLAINT

JURISDICTION

1. This action arises under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* (Title VII), and Alabama law.
2. The unlawful employment practices alleged herein were committed in the Lee County, Alabama.

PARTIES

3. Plaintiff, Tinna Sherman, is an individual over the age of 19 years and citizen and resident of Lee County, Alabama.
4. Defendant, Opelika Auto Group, Inc., (hereinafter "Mike Patton") is on information and belief, an Alabama Corporation, doing business as Mike Patton Ford in Lee County, Alabama.

CONDITIONS PRECEDENT

5. Plaintiff has timely filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("E.E.O.C"), alleging discrimination on the basis of her sex and sexual harassment.
6. Plaintiff received a Notice of Right-to-Sue from the E.E.O.C. and this action was instituted within ninety (90) days of receipt by Plaintiff of said Notice of Right-to-Sue, a copy of said notice is attached hereto and marked as "Exhibit A".

COUNT ONE: VIOLATION OF TITLE VII

7. Plaintiff is a female who was employed by Mike Patton as a salesperson in Lee County, Alabama, for approximately fourteen (14) months until her involuntary termination on or about February 17, 2006.
8. Plaintiff alleges that management for Mike Patton created and allowed to exist a hostile work environment for females and discriminated against her on the basis of her sex in violation of Title VII. Such conduct included but was not limited to sexual harassment, exclusion from meetings, disparate treatment, denial of promotion, and denial of equal opportunity to earn sales commissions.
9. Plaintiff avers that Defendant's actions of discrimination against Plaintiff were intentional, performed with malice and/or done with reckless disregard to Plaintiff's protected civil rights and that as a proximate consequence thereof, she lost wages, benefits, and other accrued emoluments associated with her employment, promotional opportunities and benefits; that Plaintiff has been caused to suffer emotional distress, embarrassment, humiliation, anxiety and concern; Plaintiff is entitled to an award of back pay, future pay, benefits, consequential and compensatory damages against the Defendant; that the Defendant's conduct was willful, wanton, and/or reckless or otherwise improper and egregious to a degree that it would require or otherwise substantiate the allowance of actual compensatory damages in an amount to be determined by the jury.
10. The Defendant engaged in discrimination against Plaintiff on the basis of her sex with malice or reckless indifference to Plaintiff's rights under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*
11. The conduct described herein constituted unlawful discrimination against Plaintiff in terms, conditions, and privileges of employment on the basis of her sex in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*
12. Plaintiff has and will continue in the future to suffer pecuniary losses as a direct result of the Defendant's violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*
13. Plaintiff has suffered, is now suffering, and will continue to suffer emotional distress, pain, inconvenience, mental anguish, and other non-pecuniary losses as a direct result of Defendant's violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*

COUNT II: NEGLIGENT HIRING, TRAINING, AND SUPERVISION

14. Plaintiff realleges paragraphs 1 through 13 of this Complaint and adopts and incorporates the same herein as if set out in verbatim.
15. Defendant negligently hired, trained, and supervised its employees during the time Plaintiff was employed by the Defendant. As a result of Defendant's negligence, Plaintiff was subjected to sexual harassment.

16. As a proximate result of Defendant's negligence, Plaintiff was caused to suffer pecuniary loss, as well as emotional distress, pain, inconvenience, mental anguish, and other non-pecuniary losses, and will continue to suffer in the future.

WHEREFORE, Plaintiff prays that this honorable Court will:

- a. Declare the conduct engaged in by Defendant to be in violation of Plaintiff's rights;
- b. Enjoin the Defendant from engaging in such conduct;
- c. Award Plaintiff back pay and benefits from the date of her termination up to the date of any action to reinstate her employment;
- d. Award Plaintiff compensatory damages against Defendant that will fully compensate her for mental distress, anguish, pain, suffering and concern that she has suffered as a direct and/or proximate result of the statutory and common law violations of Defendant as set out herein;
- e. Enter a judgment against Defendant for such punitive damages as will properly punish Defendant for the statutory and common law violations perpetrated upon Plaintiff as alleged herein, in an amount that will serve as a deterrent to Defendant and others from engaging in similar conduct in the future;
- f. Award Plaintiff her costs and attorney's fees for the pursuance of this action;
- g. Assume continuing and indefinite jurisdiction in order to ensure compliance with the terms of the orders requested herein;
- h. Grant the Plaintiff such other, further, legal, and equitable relief as it may deem just and appropriate.

Respectfully submitted this 6th day of December 2007.

PLAINTIFF DEMANDS TRIAL BY JURY ON ALL ISSUES SO TRIABLE.

//s/ Benjamin H. Parr
Benjamin H. Parr (PAR-112)
Ingrum, Rice, & Parr, LLC
Attorney for Plaintiff
410 Second Avenue
Opelika AL 36801
(334)745-3333
Fax (334)745-3155

Defendant's Address for Service:

Opelika Auto Group, Inc.

C/o Kenneth Boggs

801 Columbus Parkway

Opelika, Alabama 36801

EEOC Form 161-B (10/96)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION



ELECTRONICALLY FILED
12/6/2007 11:49 AM
CV-2007-900260.00
CIRCUIT COURT OF
LEE COUNTY, ALABAMA
CORINNE T. HURST, CLERK

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Tina Sherman
260 Lee Road 746
Salem, Alabama 36874

From: Birmingham District Office
1130 22nd Street, South
Birmingham, Alabama 35205

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

Charge No.	EEOC Representative	Telephone No.
420 2006 01379	Glenda J. Muldrow	(205) 212-2138

(See also the additional information attached to this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

- ☒ More than 180 days have passed since the filing of this charge.
- ☐ Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of the charge.
- ☒ The EEOC is terminating its processing of this charge.
- ☐ The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- ☐ The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.
- ☐ The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of your charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Delner Franklin-Thomas

Delner Franklin-Thomas, District Director

15 SEP 2007

Enclosure(s)

(Date Mailed)

cc: John Martin Galese
Galese & Ingram, P.C.
800 Shades Creek Parkway, Suite 300
Birmingham, Alabama 35209

EXHIBIT 'A'

DUPLICATE

Court Name: U S DISTRICT COURT - AL/M
Division: 2
Receipt Number: 4602002027
Cashier ID: brobinsa
Transaction Date: 12/19/2007
Payer Name: GALESE AND INGRAM PC

CIVIL FILING FEE
For: GALESE AND INGRAM PC
Case/Party: D-ALM-3-07-CV-001100-001
Amount: \$350.00

CHECK
Check/Money Order Num: 30812
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

SHERMAN C. OPELIKA AUTO ETC